IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

MACA.No. 351 of 2004()

AGAINST THE JUDGMENT IN OP(MV).1028/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA .
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APPELLANT/PETITIONER IN OP (MV)

ELIZABETH, W/O.SELVAN, NO.10/302H,
FERNANDEZ NIVAS, JAGATHALA ROAD, ARUVANKADU.P.O.,
NILGIRI DISTRICT, TAMILNADU STATE.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS: RESPONDENTS IN OP (MV)
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1. **MANAGING DIRECTOR, PLANTATION CORPORATION OF KERALA LIMITED, KOTTAYAM-4.**

2. **THANKAMANI, S/O..RAJAN, MANIMANGALATH HOUSE, VETTILAPPARA DESOM, AYYAMPUZHA VILLAGE, ALUVA TALUK.**

3. **DISTRICT INSURANCE OFFICER, KERALA STATE INSURANCE DEPARTMENT, HOUSING BOARD BUILDINGS, KANJIKUZHY, KOTTAYAM-4.**

BY ADV. SRI.JOSEPH KODIANTHARA
SRI.JOSEPH MARKOSE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 01 /06 /2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.A.C.A.No.351 OF 2004

Dated 1st June, 2007

JUDGMENT

Koshy,J.

Appellant/petitioner met with an accident. She claimed a compensation of Rs.2,00,000/=. The Tribunal awarded only Rs.60,000/= as compensation including reimbursement of medical expenses after finding that the accident occurred due to the negligence of the second respondent driver of the vehicle owned by the first respondent and insured by the third respondent insurance company. Ext.A4 wound certificate and Ext.A5 discharge summary show the following injuries:

"1. Fracture left ankle.
2. Fracture medial malleolus.
3. Fracture lateral malleolus."

Exts.A7 and A8 series are the various prescriptions issued showing that she was treated at St.James Hospital, Chalakudy and thereafter at Sahya Matha Hospital, Connoor. By Ext.A10 certificate, the doctor has certified 12% disability. The doctor examined the appellant clinically and radiologically and found that the appellant has synovitis which is the inflammation of the sinovium, covering of the capsule inside the joint. Due to this, he has limitation of movements. The doctor who issued Ext.A10 disability certificate was examined

to prove the same. However, Tribunal has taken only 6% disability even though doctor certified 12% disability. We are of the opinion that without any reason the percentage of disability was reduced. It was contended that she was a tailor, but, in the absence of evidence Rs.1,500/= was taken as the monthly income. In view of the absence of evidence, we are not changing the same. If compensation is calculated for 12% disability, the amount payable will be Rs.1,500 x 12 x $\frac{12}{100}$ x 13 = Rs.28,080/=. The Tribunal awarded Rs.14,000/= under this head. Thus, the appellant is entitled to an additional amount of Rs.14,080/=, rounded as Rs.14,000/=. We see no ground to interfere with the compensation granted under other heads as just and reasonable compensation was awarded. The above additional amount of Rs.14,000/=, now awarded, should be deposited by the third respondent insurance company, over and above the decreed amount, with 8% interest from the date of application till its deposit, within three months from the date of receipt of a copy of this judgment.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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